

## Claim Rejections – 35 U.S.C. § 102

Claims 26, 29-36, 46-53 and 94-98 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,254,483 to Acres (“Acres”). The Examiner alleges that Acres discloses the invention. The Examiner states that Acres “*discloses a method of operating a gaming machine that includes displaying, on a video display . . . a plurality of standard game appearance . . . monitoring real time . . . automatically . . . displaying modified game appearance, the artwork associated with a holiday (2:46-2:52) . . .*” (page 2). The Applicant respectfully disagrees on the basis that significant claim features and limitations are missing from Acres. Anticipation is established only when a single prior art reference discloses expressly, or under the principles of inherency, each and every element of a claimed invention.

The present invention can be distinguished from Acres by the fact that all the independent claims in the present invention require that the gaming machine change the theme of the game artwork (or thematic game artwork) at a predetermined time. For example, in independent claim 26 (as modified by this reply):

... *a display for displaying thematic game artwork for a wagering game; and . . . storing at least two data sets for producing at least two different types of said thematic game artwork, . . . selecting one of said at least two data sets primarily in response to said processor monitoring a time signal corresponding to a predetermined time.*

Independent claim 46 (from which claims 47-55 depend) requires:

... *displaying . . . standard game artwork for a wagering game the standard game artwork having a first theme, . . . automatically displaying . . . modified game artwork . . . the modified game artwork have a second theme different from the first theme, the second theme being indicative of a commonly known societal event that is associated with said predetermined time.*

Independent claim 94 (from which claims 95-97 depend) requires:

*... Automatically altering the thematic game artwork primarily in response to the real time being a predetermined time; ...*

Independent claim 98 requires:

*... a video display for displaying thematic game artwork; and a memory coupled to the control system and storing a plurality of data sets for producing respective types of the thematic game artwork, the types of the thematic game artwork having different themes, the control system selecting one of the data sets primarily in response to the control system monitoring a time signal corresponding to a predetermined time.*

In contrast, Acres does not automatically change the theme of the game artwork displayed in response to monitored real time being a predetermined time. Although Acres mentions the possibility of altering “*game appearance*” based on time, Acres says nothing whatsoever about altering thematic game artwork as required by the claims in the present invention. Acres only mentions “*game appearance*” in the context of changing the game’s background color and the card decoration used in video poker machines (column 1, lines 58-65). As a result, Acres’ “*game appearance*” is limited to simple aesthetic design choices that are manually implemented by the EGM’s configuration parameters (e.g., background color) (column 1, lines 58-63). Acres is silent with respect to changing the theme of the game’s artwork. Acres’ disclosure of “*game appearance*” in connection with configuration parameters is, therefore, limited to generic appearance items. Such generic appearance items are not associated with a particular theme and, consequently, do not constitute thematic game artwork.

Although the Examiner interprets Acres as disclosing that the game “*artwork being associated with a holiday (2:46-2:52)*,” it is apparent from a close reading of the cited Acres patent that, in fact, it is not the gaming machine’s displayed artwork that is associated with the holiday, but rather the gaming machine’s cost to the player. Consequently, the Applicant

maintains that the automatic alteration of the thematic game artwork in response to a predetermined time is a novel and non-obvious feature over Acres.

### **Claim Rejections - 35 U.S.C. § 103**

Claims 37-38 and 54-55 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Acres in view of IGWB New '97 Games ("IGWB"). The Examiner states "*Acres disclose using game artwork but does not disclose using animated characters. However, IGWB discloses using character animation to provide enjoyment to the game (Pages 15-16) . . . One would be motivated to combine the references in order to provide extra enjoyment to Acres game by adding animated characters . . .*" (page 4).

One of the basic requirements for a prima facie case of obviousness is that the prior art references must teach or suggest all of the claim limitations. Acres and IGWB do not, however, teach or suggest all of the claim limitations of the claimed invention. In particular, neither reference teaches, or otherwise suggests, a gaming machine with a thematic game artwork display that automatically changes at a predetermined time.

### **Not All Claim Limitations Taught Or Suggested**

As discussed above, thematic game artwork is not an element of Acres. Further, IGBW provides no indication or suggestion that gaming machines employ, or should employ, an automatically alterable thematic game artwork in response to a predetermined time.

The Examiner states that IGWB "*discloses using character animation to provide enjoyment to the game*" (page 4). A close reading of IGWB, however, shows that the cited paragraphs are discussing "themed areas" around a bank of gaming machines. IGBW states:

*To present slots in a more interesting way, many casino operators have turned to grouping about 12 to 20 machines into custom designed themed areas . . . themed environments which include three dimensional signs atop slot carousels, music, and even coordinating furniture . . . the proliferation of casinos*

*... has contributed to the use of themed slot areas . . . several elaborately themed slot areas created by Mikohn . . . complete with three dimensional firemen and a dalmatian, and such sound effects as a siren, . . . which contains animal-print seats as well as three-dimensional animals atop the carousel . . .* (IGBW, pages 15-16, paragraph starting with “[t]o present slots . . .” to the fourth paragraph on page 16.)

IGWB does not state that the gaming machine itself is displaying thematic game artwork on its visual display. The visual effects described in IGBW all relate to decorative physical objects staged around the gaming machine as depicted in the picture on page 16 of the article.

#### Claims 54-55

With reference to claims 54 and 55, the Examiner states that IGWB “*discloses a plurality of modified visual elements that are player selectable*” (IGWB, page 11, paragraphs 1-4). The Applicant points out that IGBW is not alluding to visual elements that are modifiable. Rather, IGBW is referring to the industry’s trend away from the use of traditional artwork for visual elements (such as 7’s, etc.), to non-traditional artwork (e.g., cabooses, etc). IGBW states:

*Every year manufacturers of slot machines unveil their latest exciting machines in an attempt to refresh customer interest and boost drop. From the player’s perspective, however, the essence of these dazzling machines hasn’t changed much at all. Everybody has to get three sevens. Then they try to reconfigure and call them cherries or cabooses, or whatever, but it is essentially the same thing.* (IGBW, page 11, paragraphs 1-2.)

The paragraph cited above indicates that the “reconfiguration” of the visual elements is a result of the annual introduction of new slot machines. The “reconfiguration” changes discussed in the article are in the context of manufacturing changes. The article is silent with respect to the automatic modification of the gaming machine’s visual elements. The point of the article is that manufacturers are introducing new gaming machines with new artwork, not that the gaming machines have modifiable visual elements.

If the Examiner wishes to maintain the obviousness rejection with respect to the claimed features clearly missing from Acres and IGWB, the Applicant respectfully requests that the Examiner cite appropriate references that disclose such features. *See* MPEP 2144.03.

### Conclusion

It is the Applicant's belief that the claims are now in condition for allowance, and action towards that end is respectfully requested. If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated.

Respectfully submitted,



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